



Health Policy Briefing

September 8, 2014

Congress Returns to Confront FY 2015 Spending Showdown and PPACA Legislation

Key Spending Decisions Needed in Short Session

Congress returns this week with very few legislative days remaining to act on fiscal year (FY) 2015 spending and other legislation important to both parties before the November elections. The House is expected to act first on any potential deal struck to extend federal spending into early December (most likely via a continuing resolution – or CR). In the alternative the House could act unilaterally on a CR as early as this week. This week the House will also take up the following health bills on the suspension calendar: H.R. 4701, the Vector-Borne Disease Research Accountability and Transparency Act of 2014, H.R. 4290, the Wakefield Act of 2014, and H.R. 669, the Sudden Unexpected Death Data Enhancement and Awareness Act. In addition, the House Republican leadership has alerted members that H.R. 3522, the Employee Health Care Protection Act will likely be taken up under a closed rule. This legislation, related to the Patient Protection and Affordable Care Act (PPACA), would allow individuals to continue to purchase “grandfathered” health insurance in 2014 outside of PPACA exchanges to the extent that such group policies were offered on any date in 2013.

Update on Ebola Crisis

After a trip to Africa, the Centers of Disease Control and Prevention (CDC) Director Thomas Frieden said the window is closing on the ability of governments to sufficiently contain the spread of the Ebola virus and urged nations to respond to the World Health Organization’s recommendation for \$490 million in funding to help fight the disease. The CDC Director said that the experimental vaccine developed by the National Institutes of Health (NIH)/ GlaxoSmithKline, which is subject to human testing beginning this week, may give hope to the future availability of a potential solution, but cautioned that the outcome is uncertain. Also, the U.S. Department of Health and Human Services (HHS) Biomedical Advanced Research and Development Authority (BARDA) awarded an initial \$25 million to accelerate development of the drug ZMapp as a treatment to neutralize the virus. In addition, the Office of

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Management and Budget (OMB) is urging Congress to establish an “Urgent and Emerging Threat Fund” of over \$68 million under the CR discussed above to give the CDC more resources to address the crisis. House Energy and Commerce Committee Democrats have requested that a hearing be held on the Ebola crisis.

PPACA Health Reform Update

PPACA New Enrollment Season Looms

The Centers for Medicare and Medicaid Services (CMS) finalized a proposed rule under which individuals enrolled under HealthCare.gov will be given notice that they will be automatically reenrolled for 2015 unless they take specific action otherwise. Related health insurers will also notify such individuals of their premium amounts and potential tax credit subsidies if they accept the terms of the reenrollment. Individuals who did not give permission for an update of their income situation will not receive subsidies unless they access the website and provide the information. In five federally facilitated marketplace states (DE, IL, NJ, MO, and OH) employers and agents/brokers will have early access for 2015 coverage to online functionality for the Small Business Health Options Program (SHOP) on HealthCare.gov. The website has also been found to have sustained a breach when malware was found on the server that supports the website. HHS said that personal information was not compromised in that the server in question did not contain personal information.

D.C. Court of Appeals to Rehear Halbig Case

The full U.S. Court of Appeals for the District of Columbia Circuit has scheduled a rehearing of the Halbig v. Burwell case in which a panel found that the Internal Revenue Service (IRS) acted illegally in issuing regulations that allow for federal tax premium subsidies to be given to individuals for coverage obtained through HealthCare.gov (in states that did not elect to set up their own exchanges). The plaintiffs had previously argued that the Administration’s petition for an en banc hearing in the D.C. Circuit Court would be a “waste of resources” given that there are split decisions in several circuits and that the Supreme Court should intervene to resolve the matter.

Medicare/Medicaid/PHSA Corner

MedPAC Comments on 2015 Medicare MD Fee Schedule

The Medicare Payment Advisory Commission (MedPAC) sent a letter to CMS with comments on the proposed calendar year (CY) 2015 physician payment schedule in which, among other things, they recommended that CMS encourage clinicians to organize into or join groups that take clinical and financial accountability for their patients (e.g. Affordable Care Organizations and Medicare Advantage plans). They said that it may not be worth the resources required for the agency to put its focus on the performance of individual physicians in connection with the agency’s Medicare quality measurement programs.

CMS Seeks Comments on Improper Payments Program

CMS is requesting comments on a so-called computer matching program (CMP) that will use data from the Department of the Treasury on individuals and organizations that have been blocked from receiving payments, contracts or other benefits from the federal government. CMS will match the data against records maintained in the Medicare Provider Enrollment, Chain, and Ownership System (PECOS) to check payments made to providers and physicians in an effort to halt improper payments.

Medicare/Medicaid/PHSA Corner cont.

HHS Makes Healthy Start Grants

HHS announced that the agency has awarded \$65 million under the Healthy Start program to 87 organizations in thirty-three states to assist them in helping reduce high infant mortality and other health problems related to pregnancy and mothers' health. The HHS Secretary said that the program is expected to aid more than 56,000 women and children.

Health-Related Hearings and Markups

Senate Veterans' Affairs Committee: will hold a hearing on the findings of an investigation into the Department of Veterans Affairs medical center at Phoenix; 10 a.m., 216 Hart; September 9.

House Energy and Commerce Health Subcommittee: will hold a hearing to examine the regulation of Lab Developed Tests as a continuation of the committee's bipartisan 21st Century Cures initiative; 9:30 a.m.; 2322 Rayburn; September 9.

House Energy and Commerce Health Subcommittee: will hold a discussion on medicine, patients and treatments with HHS Secretary, NIH Director and FDA Commissioner; 10 a.m., 2123 Rayburn; September 10.

House Ways and Means Health Subcommittee: will hold a hearing on the status of the 2010 health care overhaul law; 10 a.m., 1100 Longworth; September 10.

House Veterans' Affairs Committee: will hold a markup of pending legislation; 9:30 a.m., 334 Cannon; September 10.

House Energy and Commerce Health Subcommittee: will hold a hearing on legislation, the Trafficking Awareness Training for Health Care Act; 9:15 a.m.; 2123 Rayburn; September 11.